

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

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| In re: | § | Case no. 21-33989 |
| Smokinkwr LLC | § | Chapter 11 |
| Debtor | § | Subchapter V |

**EMERGENCY MOTION OF SMOKINKWR LLC TO EXTEND TIME TO FILE PLAN
OF REORGANIZATION**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.

SMOKINKWR LLC REQUESTS THE COURT HEAR THE MOTION ON MARCH 14, 2022 OR AS SOON AS PRACTICALLY POSSIBLE.

TO THE HONORABLE UNITED STATES BANKRUPTCY COURT:

COMES NOW, SMOKINKWR LLC, Debtor-in-Possession, and files its Emergency Motion to Extend Time to File Plan of Reorganization, and as grounds thereof, would show:

1. On December 14, 2021, Smokinkwr LLC (“Smokinkwr”) filed its Petition for Relief under Subchapter V of Chapter 11 of the Bankruptcy Code.
2. Smokinkwr is acting as debtor-in-possession.

3. A plan of reorganization is required to be filed within 90 days after the filing date of the petition for relief. 11 U.S.C. §1189(b).

4. The court may extend the period if the need for the extension is attributable to circumstances for which the debtor should not justly be held accountable. *Id.*

5. Unless the Court extends deadline, the plan should be filed by March 14, 2022.

6. Smokinkwr would show that the Court should extend the period to file the plan because of circumstances for which Smokinkwr should not justly be held accountable.

7. Smokinkwr sells barbeque food to the public in 15 stores franchised by Dickey's Barbeque Restaurants, Inc.

8. Several of these stores are in the Dallas, Texas and Houston, Texas areas.

9. During an extended period in February, 2022, several of the stores could not operate because of severe winter weather.

10. The Shady Drive store in Houston, Texas was closed after two employees were shot by a customer on February 25, 2022. Only recently did the store reopen for business.

11. The Frisco Texas store has been closed since January 25, 2022 because the landlord wrongfully locked Smokinkwr's employees out. Although Smokinkwr was able to reobtain possession of the store, the store has been closed until new employees can be hired to work at the store.

12. Smokinkwr just obtained Harris County to approve the health permit to begin operation at the new store in LaPorte, Texas.

13. As a result of these events which were beyond Smokinkwr's control, its business income has suffered.

14. This loss in business income prevented Smokinkwr from timely paying the monthly rent owed to the landlords of its stores.

15. Further, before the case was filed, several creditors placed holds on credit card receivables generated by delivery services through which many of Smokinkwr's retail customers ordered its food products. Although all the holds have been released, several of the delivery services, including the credit card processor Stripe, are still withholding payments owed to Smokinkwr despite delivery to these companies of the Court's Order (ECF #120) to turnover these funds to Smokinkwr.

16. Finally, Chase Merchant Services has yet to turnover to Smokinkwr approximately \$32,480 which it is still holding.

17. Smokinkwr needs another fourteen days to recover the business income needed to fund a feasible plan of reorganization.

18. This extension of time to file the plan will also allow Smokinwr to negotiate with its creditors in order to obtain a consensual plan.

WHEREFORE, Smokinkwr requests a fourteen (14) day extension on filing the plan until March 28, 2022, and for such other relief which the Court deems just.

Dated: March 10, 2022

Respectfully submitted,

THE LAW OFFICE OF THOMAS F. JONES III

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